

## **REMARKS**

Reconsideration of the present application is respectfully requested.

Prior to this Response, Claims 1-34 were pending in the application, of which Claims 1, 6, 12, 17 and 26 were written in independent form.

In the Office Action, the Examiner made a non-statutory double patenting rejection of Claims 1-34, as being unpatentable over Claims 1-28 of copending Application Serial No. 10/794,989. Under 35 U.S.C. §103(a) the Examiner rejected the following: Claims 1-4, 6 and 12-15, as being unpatentable over I.E.E.E. 802.16(e) "Mobility Enhancements" to *Kitroser et al.* (hereinafter *Kitroser*) in view of WO 99/43178 to *Salonaho*; Claims 5, 8-10 and 16, as being unpatentable over *Kitroser* in view of *Salonaho*, and further in view of U.S. Patent No. 6,577,868 to *Vialen et al.* (hereinafter *Vialen*), and Claims 11, 17-20 and 22-25, as being unpatentable over *Kitroser* in view of *Salonaho* and further in view of U.S. Patent No. 6,990,344 to *Dolan*. As for Claims 21 and 26-34, it is respectfully asserted that the actual combination of references upon which the Examiner based the rejection of these claims is vague. It can be determined, however, that the rejection of Claims 21 and 26-34 was based on a combination of the previously cited references herein.

Please amend Claims 1, 5-7, 10-12, 15-17, 21-23, 26 and 30-32 as set forth herein. Please add new Claims 35 and 36. No new matter has been added. Accordingly, Claims 1-36 are currently pending herein.

Regarding the double patenting rejection of Claims 1-34, the Examiner alleged that all of the claims herein are unpatentable over Claims 1-28 of copending Application Serial No. 10/794,989, which is our docket no. 678-1375. For rationale, the Examiner alleged that Claim 1 herein is an obvious variation of Claim 1 of the copending application. However, Applicants respectfully disagree.

Although the respective Claims 1 in the copending application and the present claims both concern a handover by a subscriber station (SS), it is respectfully asserted that the recitations in at least parts c) and d) in the present Claim 1 are not recited in Claim 1 of the copending application. Applicants further assert that these recitations would not have necessarily been obvious, especially without any reasoning from the Examiner in the rejection.

To wit, pursuant to at least M.P.E.P. §804 II (B)(1), which sets forth the requirements of an obviousness-type double patenting rejection, the Examiner must make clear (A) The differences between the inventions defined by the conflicting claims – a claim in the patent compared to a claim in the application; and (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent. Clearly, the Examiner failed to do so herein. For at least these reasons, it is respectfully submitted that the double patenting rejection should be withdrawn, and withdrawal of the same is respectfully requested.

Regarding the §103(a) rejection of Claims 1-4, 6 and 12-15, Applicants respectfully traverse.

Specifically, the Examiner alleged that *Kitroser* is different from Claim 1 in that the reference does not teach, “measuring CINRs of pilot signals and reporting it serving BS in connection with handover.” The Examiner alleged that the same is disclosed in *Salonaho*, however it does not appear that *Salonaho* teaches an SS that reports measured CINRs of pilot signals of the neighbor BSs to a serving BS in connection with the handover request signal, as directed to in Claim 1. Thus, for at least this reason it is respectfully submitted that the same would not have been obvious over *Kitroser* in view of *Salonaho*.

In addition, the Examiner alleged that estimating signal quality by SS and that an SS will listen to neighbor BS are disclosed in section 2.4.1 of *Kitroser*, and that measuring and reporting CINR is disclosed in Figs. 1-10, on page 6, line 4 - page 9, line 22, and page 12, line 35 – page 19, line 20 of *Salonhao*.

Referring to page 6, line 4 – page 9, line 22 of *Salonhao*, it is disclosed that an MS that reports the measurement result is classified as a measurement report type. In other words, the measurement report type is the type that the MS reports the measurement result itself, and it is related to a measurement period and/or whether to meet a trigger condition.

Further, referring to page 12, line 35 to page 19, line 20 of *Salonhao*, the feature for an MEHO algorithm is disclosed, and it is also disclosed that the MS performs measurement report including a proper measurement result according to the situation when reporting the measurement.

In contrast, Claim 1 recites *inter alia*, measuring CINRs (Carrier to Interference and Noise Ratios) of pilot signals transferred from the neighbor BSs upon receipt of the information relating to the neighbor BSs; and transmitting a handover request signal to the serving BS along with pilot signal CINR information of the neighbor BSs;

It is clear that in Claim 1, the MS requests a handover along with a CINR measurement result. That is, in Claim 1, the MS does not transmit only the CINR measurement result as disclosed in *Salonhao*, but Claim 1 recites that the MS transmits CINR measurement result while requesting the handover. It is respectfully asserted that requesting the handover along with the CINR measurement result as directed to in Claim 1 is not taught or even fairly suggested in *Salonhao*, either alone or in combination with *Kitroser*.

It is respectfully asserted that claims 2-4 and 6 are dependent on claim 1, and are not obvious over the cited references for at least the reasons as set forth above with respect to Claim 1. In addition, Claim 6 is directed to a serving BS notifying only one target BS that a SS will perform a handover to the target BS, so that only the target BS reserves and allocates the resource for the SS's handover and the other neighbor BSs does not allocate the resource for the SS's handover.

Accordingly, the target BS allocates the dedicated ranging resource to the SS, so that the SS's fast handover can be possible. Thereby, there is an effect of increasing the resource efficiency in the system.

Therefore, it is believed that Claim 6 is distinct from *Kitroser* and *Salonhao* and cannot be taught or suggested from the combination of *Kitroser* and *Salonhao*.

Claim 7 is dependent on claim 6, and respectfully, is not obvious over the cited references for at least the foregoing reasons as set forth with respect to the rejection of Claims 5 and 6.

It is respectfully asserted that Claims 6 and 12 are not obvious over the cited references, for at least the foregoing reasons with respect to Claim 1, and since the Examiner based the rejection of Claims 6 and 12 on the rationale as to Claim 1. It is respectfully submitted, therefore, that the §103(a) rejection of Claims 1-4, 6 and 12-15 is incorrect, and should be withdrawn. Withdrawal of the same is respectfully requested.

Regarding the §103(a) rejection of Claims 5, 8-10 and 16, the Examiner alleged that the feature related to QoS in Claims 5 and 8 is disclosed in Fig. 6, column 5, line 60 to column 6, line 27 of *Vialent*. It is respectfully asserted that as Claim 5 is dependent on Claim 1, Claim 5 is not rendered obvious over the cited reference for at least the foregoing reasons as set forth above with respect to Claim 1.

As claims 9-10 are dependent on claim 6, it is respectfully asserted that Claims 9-10 are not obvious over the cited references for at least the foregoing reasons as set forth above with respect to Claim 6.

Regarding the §103(a) rejection of Claims 11, 17-20 and 22-25, Applicants respectfully assert that the Examiner is incorrect for at least the same reasons as the foregoing with respect to Claim 1, since the Examiner relied on the combination of *Kitroser* in view of *Salonaho* to teach similar recitations in Claims 17 and 26, to those which as previously explained do not appear in

Claim 1.

In addition, on column 6, lines 56-column, line 4 of *Dolan*, it is disclosed that the situation where the neighboring cells cannot support a handover can occur.

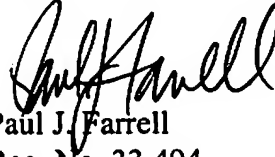
However, *Dolan* does not teach or fairly suggest notifying the SS that a handover cannot be performed, as directed to in Claim 11 and no combination of the cited references provides this teaching.

For at least the foregoing reasons, it is respectfully submitted that each of the §103(a) rejections should be withdrawn, as none of the cited secondary references cure the stated deficiencies in *Kitroser* and *Salonaho*. Accordingly, withdrawal of said rejections is respectfully requested.

Independent Claims 1, 6, 12, 17 and 26 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-5, 7-11, 13-16, 18-25 and 27-34, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-5, 7-11, 13-16, 18-25 and 27-34 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-36, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the printed name.

Paul J. Farrell  
Reg. No. 33,494  
Attorney for Applicants

THE FARRELL LAW FIRM  
333 Earle Ovington Blvd. Suite 701  
Uniondale, New York 11553  
Tel: (516) 228-3565  
Fax: (516) 228-8475

PJF/RCC/dr